

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 * * *

4 JASON A. MAHE,

5 Plaintiff,

6 v.

7 F. FRAZIER, *et al.*,

8 Defendants.

Case No. 3:23-CV-00096-MMD-CLB

**REPORT AND RECOMMENDATION OF
U.S. MAGISTRATE JUDGE¹**

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10 This case involves a civil rights action filed by Plaintiff Jason A. Mahe (“Mahe”).
11 Before the Court is Mahe’s failure to comply with Local Rule (“LR”) IA 3-1 requiring him
12 to change his address.

13 On March 5, 2024, the Court entered a scheduling order in this case. (ECF No.
14 19.) The Court mailed this document to Plaintiff’s address at the Ohio Department of
15 Rehabilitation’s Lorain Correctional Institution. On March 19, 2024, Lorain Correctional
16 Institution returned this document as undeliverable. (ECF No. 21.) From this, it appeared
17 that Mahe was no longer at Lorain Correctional Institution but had not filed a change of
18 address with the Court. Therefore, the Court issued an order requiring Mahe to update
19 his address by May 20, 2024, pursuant to Local Rule IA 3-1. (ECF No. 22). Mahe was
20 cautioned that his failure to do so would result in a dismissal of this action. (*Id.*)

21 To date, Mahe has not filed a notice of change of address with the Court. LR IA 3-
22 1 provides that the failure to “immediately file with the Court written notification of any
23 change of address . . . may result in dismissal of the action”

24 Prior to dismissal for failure to follow local rules, the court must consider “(1) the
25 public’s interest in expeditious resolution of litigation; (2) the court’s need to manage its

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27 ¹ This Report and Recommendation is made to the Honorable Miranda M. Du,
28 United States District Judge. The action was referred to the undersigned Magistrate
Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and LR IB 1-4.

1 docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition
2 of cases on their merits; and (5) the availability of less drastic sanctions.” *Carey v. King*,
3 856 F.2d 1439, 1440 (9th Cir. 1988) (quoting *Henderson v. Duncan*, 779 F.2d 1421, 1423
4 (9th Cir. 1986)). This litigation cannot proceed or be decided on the merits if the court
5 and Defendants cannot contact Mahe, nor should the court or Defendants be required to
6 continue to try to resolve the case without the Mahe’s participation. All five factors clearly
7 favor dismissal of this case.

8 Based on the foregoing and for good cause appearing, the court recommends that
9 this case be dismissed based upon Mahe’s failure to notify the court of his change of
10 address pursuant to LR IA 3-1.

11 The parties are advised:

12 1. Pursuant to 28 U.S.C. § 636(b)(1)(c) and Rule IB 3-2 of the Local Rules of
13 Practice, the parties may file specific written objections to this Report and
14 Recommendation within fourteen days of receipt. These objections should be entitled
15 “Objections to Magistrate Judge’s Report and Recommendation” and should be
16 accompanied by points and authorities for consideration by the District Court.

17 2. This Report and Recommendation is not an appealable order and any notice
18 of appeal pursuant to Fed. R. App. P. 4(a)(1) should not be filed until entry of the District
19 Court’s judgment.

20 RECOMMENDATION

21 IT IS THEREFORE RECOMMENDED that this action be **DISMISSED** for Mahe’s
22 failure to comply with LR IA 3-1.

23 DATED: May 28, 2024.

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UNITED STATES MAGISTRATE JUDGE